

Message Text

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ACTION STR-07

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EUR-12 NEA-10 OIC-02 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 USIA-06 SP-02 SOE-02 OMB-01
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TO SECSTATE WASHDC PRIORITY 7249
INFO ALL EC CAPITALS

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USMTN USEEC

STR FOR ACTION

STR PASS CODEL

E.O. 11652: N/A
TAGS: MTN, ETRD
MTN: PRELIMINARY DISCUSSION OF U.S. AND EC NTM OFFERS

1. SUMMARY: US AND EC CONDUCTED A PRELIMINARY DISCUSSION OF OFFERS ON NON-TARIFF MEASURES. U.S. DISAPPOINTMENT WITH EC OFFER WAS CONFIRMED WHEN AN ITEM-BY-ITEM REVIEW INDICATED NO INITIAL EC WILLINGNESS TO CHANGE NTM'S SUBJECT TO U.S. REQUESTS. U.S. DEL STATED THAT THE EC OFFER STOOD IN STARK CONTRAST TO A FORTHCOMING U.S. OFFER ON NTM'S AND EC POSITION WOULD BE TAKEN INTO ACCOUNT IN FURTHER CONSIDERATION OF POSSIBLE U.S. CONCESSIONS. BOTH SIDES AGREED TO HAVE
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FOLLOW-UP SESSIONS FOR MORE DETAILED DISCUSSION OF SPECIFIC MEASURES. END SUMMARY.

2. U.S. AND EC HELD PRELIMINARY DISCUSSION OF INITIAL NON-TARIFF MEASURES OFFERS ON 9 MARCH. U.S. DEL (NEW-KIRK, MCNAMARA) TOOK ADVANTAGE OF THE PRESENCE OF MEMBER STATES REPS TO GIVE A BRIEF RUN-DOWN OF THE STATUS

AND U.S. POSITION ON THE VARIOUS NTM CODE NEGOTIATIONS. WHILE THE BULK OF THE NEGOTIATING EFFORT WOULD BE IN NTM AREAS SUBJECT TO CODE NEGOTIATIONS, U.S. DEL POINTED TO ITS REQUESTS AS AN INDICATION OF OTHER NON-TARIFF MEASURES WHICH WE ALSO DEEM IMPORTANT. U.S. DEL DREW DISTINCTION BETWEEN NON-TARIFF MEASURES WHICH ARE SPECIFICALLY RELATED TO A GIVEN TARIFF LINE ITEM AS OPPOSED TO THOSE GENERAL NTM'S APPLYING TO MORE THAN ONE ITEM OR INVOLVING MORE THAN ONE COUNTRY. IN THE CASE OF THEFORMER, NTM LIBERALIZATION WOULD BE CLOSELY RELATED TO POSSIBLE TARIFF REDUCTIONS ON THE SPECIFIC ITEM. EC REP (ABBOTT) SHARED U.S. PERSPECTIVE THAT THE MAIN NTM EFFORT WOULD BE IN THE CODE NEGOTIATIONS. HE STATED, HOWEVER, THAT THERE ARE ONE OR TWO OTHER U.S. NTM'S ON WHICH THE EC FEELS STRONGLY.

3. INGENERAL INTRODUCTORY REMARKS ON THE EC OFFER, U.S. DEL INDICATED ITS DISAPPOINTMENT IN BOTH THE FORM AND SUBSTANCE OF THE EC NTM OFFERS CORRESPONDING TO U.S. REQUESTS. THE U.S. NTM OFFERS HAD BEEN DEVELOPED ON A LINE-BY-LINE BASIS RESPONDING TO ALL REQUESTS RECEIVED WHILE THE EC ALLEGED OFFER IS GENERAL IN NATURE AND DID NOT MAKE ANY SPECIFIC RESPONSES TO U.S. REQUESTS. HIGHLIGHTS OF THE DISCUSSION ON THE PARTICULAR MEASURES ARE AS FOLLOWS:

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(A) RULES OF ORIGIN (R/O): U.S. DEL INTRODUCED THIS ITEM AS BEING ONE OF THE MORE IMPORTANT NTM'S MAINTAINED BY THE EC, BEING APPLIED ON MANY PRODUCTS BY ALL EC/EFTA COUNTRIES. THE EC RESPONDED NOTING INFORMAL CONTACTS ALREADY HELD WITH U.S. AND DECLARED THAT ACROSS THE BOARD NEGOTIATIONS ON R/O WERE UNACCEPTABLE. EC WOULD BE WILLINGTO CONSIDER REQUESTS ON SPECIFIC PRODUCTS AND REITERATED ITS REQUEST FOR THE U.S. TO SUBMIT SUCH A LIST OF PRODUCTS. U.S. RETORTED THAT IF WE ASSUMED SUCH AN ATTITUDE IN ASP, FOR EXAMPLE, NEGOTIATIONS WOULD DRAG ON INTERMINABLY.

(B) CLASSIFICATION ISSUES: EC ASSERTED THAT CURRENT CLASSIFICATION PRACTICES OF MEMBER STATES ARE APPLIED UNIFORMLY THROUGHOUT EC ON THE ITEMS REQUESTED BY THE U.S. ANY DIVERGENCIES FROM THIS PRACTICE WERE INADVERTENT, STEMING FROM THE COMPLEXITIES OF NATIONAL CUSTOMS MECHANISMS RATHER THAN ANY DESIGNED INTENTION TO MODIFY THE CLASSIFICATION. IF THE U.S. CAN SUPPLY ANY EVIDENCE THAT BELGIUM AND THE NETHERLANDS SYSTEMATICALLY CLASSIFY CRANES DIFFERENTLY, THE EC WOULD BE WILLING TO CONSIDER THE ISSUE FURTHER. EC REITERATED ITS RE-

QUEST FOR MORE INFORMATION WITH RESPECT TO TRACTOR
CLASSIFICATION AND STATED THAT, IN THE VIEW OF THE EC
NOMENCLATURE COMMITTEE, BORAZON IS CORRECTLY CLASSIFIED
AS A CHEMICAL GIVEN ITS ABILITY TO BE ALTERED TO CHEMICAL
STATE BY A SIMPLE HEATING PROCESS.

(C) QR'S: EC POINTED TO WHAT IT CALLED ITS "SUB-
STANTIAL EFFORT" IN THIS AREA CITING A LARGE NUMBER OF
OFFERS. IN RESPONSE TO U.S. PROBE ABBOTT ACKNOWLEDGED
THAT THESE OFFERS WOULD ONLY BE OF SUBSTANTIAL TRADE
BENEFIT TO JAPAN. OF COURSE, IMPLEMENTATION OF SUCH
OFFERS WOULD BE CONTINGENT UPON CONCESSIONS THE EC
RECEIVES FROM JAPAN. WITH RESPECT TO SPECIFIC U.S.
REQUESTS, EC SAID THAT THEY DO NOT CONSIDER SCREEN TIME
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QUOTAS TO BE RESTRICTIVE SINCE THE U.S. ALREADY ENJOYS

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A LARGE MARKET SHARE IN FILMS AND VIDEO TAPE PROGRAMS. THESE MEASURES, ABBOTT ASSERTED, ARE CONSISTENT WITH GATT ARTICLE IV. ON DIODES AND TRANSISTER PARTS (CCCN 85.21(D) AND (E)) THE EC POINTED TO GATT ARTICLE XXI (NATIONAL SECURITY) AS JUSTIFICATION FOR RESTRICTIONS AND THEREFORE THE EC WAS UNABLE TO MAKE AN OFFER. WITH RESPECT TO THE VEHICLE EMBARGO, THE EC NOTED THAT THIS SYSTEM WAS BEING PHASED OUT AND THAT THEY WERE NOT IN A POSITION TO ACCELERATE THIS DEMISE. WITH RESPECT TO AIRCRAFT, EC NOTED THAT THE LARGE NUMBER OF U.S. JUMBO JETS IN OPERATION IN THE EC IS TESTIMONY TO THE LACK OF ANY EFFECTIVE TRADE RESTRICTION ON THESE IMPORTS. U.S. DEL (MCNAMARA) NOTED THAT THE U.S. TARIFF OFFER ON AIRPLANES HAD BEEN VERY FORTHCOMING, BUT THAT EC RESPONSE ON U.S. NTM REQUEST WOULD BE KEPT IN MIND LIMITED OFFICIAL USE

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AS FURTHER DEVELOPMENTS WERE CONSIDERED IN THE TARIFF FIELD. THE LICENSING MECHANISMS WITH RESPECT TO WAX (CCCN 27.13) AND ESSENTIAL OILS OF CITRUS (CCCN 33.01) ARE NOT SUBJECT TO AN EC OFFER. EC IS UNAWARE OF ANY MAJOR U.S. TRADE INTEREST IN THESE ITEMS.

(D) EXPORT QUOTAS AND LICENSING: EC SAID THAT THE REQUESTS OF THE U.S. COVER PRODUCTS SUBJECT TO EC REGIME AND THAT THE U.K. MEASURES ARE COVERED BY THE EC SYSTEM. ABBOTT NOTED THAT THE EC IS PARTICIPATING IN EXPLORING POSSIBLE DEVELOPMENT OF GENERAL RULES ON EXPORT MEASURES IN THE MTN. IF AGREEMENT ON SUCH RULES CAN BE ACHIEVED, EC MIGHT BE WILLING TO REASSESS THEIR POSITION. FOR THE RECORD, ABBOTT STATED THAT THERE WERE NO EXPORT EMBARGOS MAINTAINED BY THE U.K. AND THAT THIS FACT HAD BEEN NOTIFIED TO THE GATT NTM INVENTORY.

(E) MISCELLANEOUS MEASURES MAINTAINED BY MEMBER STATES: EC DEL INVITED U.S. TO ENGAGE IN FOLLOW-UP MEETINGS WITH THE COMMISSION AND RESPECTIVE MEMBER STATES ON SPECIFIC MEASURES MAINTAINED BY THOSE MEMBER STATES. AS A GENERAL OBSERVATION THE EC HAS CONCLUDED THAT MEASURES REQUESTED BY THE U.S. DID NOT HAVE A SERIOUS IMPACT ON TRADE AND THAT THESE MEASURES WERE MAINTAINED FOR GOOD REASONS. THE EC HAD NOT BEEN ABLE TO IDENTIFY ANY MEASURE ON WHICH IT WOULD BE "RIGHT" TO ENTER INTO SERIOUS NEGOTIATIONS UNLESS "HEFTY PAYMENT" COULD BE FORESEEN TO REVISE THESE MEASURES. ABBOTT DID NOTE, HOWEVER, THAT PROGRESS IS BEING MADE ON THE DEVELOPMENT OF PATENT LEGISLATION IN ITALY. ON THE U.S. REQUESTS ON ROAD TAXES, ABBOTT SAID THAT THE EC DOES NOT SEE ANY

SCOPE FOR APPROACHING THIS TOPIC AND QUIPPED THAT THE
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U.S. "LOST ITS CHANCE" WHEN ASP DIDN'T GET THROUGH
CONGRESS AFTER THE KENNEDY ROUND. ABBOTT SPECULATED
THAT THE U.S. MOVEMENT TOWARD PRODUCTION OF SMALLER
CARS WOULD MAKE THIS MEASURE LESS SIGNIFICANT FOR
TRADE IN THE FUTURE.

4. IN CONCLUDING, U.S. DEL EXPRESSED APPRECIATION FOR
THE OFFER TO TAKE UP SOME OF THESE TOPICS IN MORE DETAIL.
U.S. COULD NOT HIDE ITS DISAPPOINTMENT WITH THE
"CLARIFICATION" PROVIDED BY THE EC, AND FIRMLY STATED
THAT THE EC POSITION WOULD BE TAKEN INTO ACCOUNT
IN DEVELOPMENT OF FURTHER U.S. OFFERS, PARTICULARLY IN
THE NTM AREA.

5. DISCUSSION THEN TURNED TO U.S. OFFERS COVERING NTM
REQUESTS BY THE EC. U.S. DEL PROVIDED CLARIFICATION OF
OF OFFERS BASED UPON MATERIAL SUPPLIED BY WASHINGTON
AGENCIES. HIGHLIGHTS OF THE DISCUSSION WERE AS FOLLOWS:
(A) COPYRIGHT RESTRICTION ON BOOKS: EC STATED THAT
THEY RECOGNIZED THE LIBERALIZATION MOVES MADE BY THE
UNITED STATES AND HOPED THAT, AS IS FORSEEN, THE
MANUFACTURING CLAUSE WILL BE TERMINATED IN 1982.
ABBOTT ASSERTED THAT ANY PROTOCOL OF PROVISIONAL ACCES-
SION COVERAGE AFTER THAT DATE WOULD BE "INVALID" IF
CONGRESS DECIDED TO EXTEND THE MANUFACTURING CLAUSE.

(B) MERCHANT MARINE ACTS: EC STATED THAT THE U.S.
RESPONSE ON THE VARIOUS REQUESTS CONCERNING THE MER-
CHANT MARINE ACTS WERE UNACCEPTABLE AND REQUESTED
CLARIFICATION OF U.S. OFFER, PARTICULARLY THE TERM
"EXTREMELY DIFFICULT" TO PROVIDE EXEMPTIONS OF SPECIFIC
VESSELS. EC ALSO PROPOSED THAT ANOTHER SESSION BE
DEVOTED TO THE NUMEROUS DETAILS THAT THESE MERCHANT
ACTS INVOLVE. U.S. REFERRED TO THE RESPONSE ON THIS
MEASURE, STATING THAT THE PRINCIPLE OF THE LAW IS
NON-NEGOTIABLE, AND EXEMPTIONS OF SPECIFIC VESSELS WOULD
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BE EXTREMELY DIFFICULT TO ACCOMPLISH.

(C) FIREARMS: THE EC POINTED TO THE DISCRIMINATORY
TREATMENT AFFORDED IMPORTS IN LICENSING OF FIREARMS
(PISTOLS) WHILE U.S. DOMESTIC SALES NOT SUBJECT TO

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SS-15 ITC-01 TRSE-00 USIA-06 SP-02 SOE-02 OMB-01
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SIMILAR RESTRICTIONS AND REITERATED ITS INTEREST IN
LIBERALIZATION. U.S. DEL POINTED TO PUBLIC WELFARE
AND SAFETY REASONS FOR MAINTAINING THE LICENSING
SYSTEM.

(D) DUTY ON SHIP REPAIRS: EC SAID THAT IT WAS
ATTEMPTING TO PUT A TRADE VALUE ON ITS INTEREST IN
THIS ITEM (FYI: IN PRIVATE CONVERSATION U.K. REP
STATED THAT VALUE OF THIS MEASURE IN TRADE TERMS TO
U.K. IS APPROXIMATELY 2.5 MILLION POUNDS ANNUALLY
AND THAT A FIGURE OF FOUR TIMES THAT AMOUNT WOULD BE
APPROXIMATE FOR THE EC. END FYI). ABBOTT OUTLINED
A HYPOTHETICAL SITUATION THAT COULD ARISE UNDER THIS
PARTICULAR PROVISION. FOR EXAMPLE, IF BRANIFF AIRLINES
LEASES A CONCORDE FOR WASHINGTON-DALLAS FLIGHTS AND
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IT MUST BE REGISTERED AS A U.S. AIRCRAFT. SINCE THE CONCORDE CAN ONLY BE SERVICED IN FRANCE AND THE U.K., IT WOULD BE SUBJECT TO A HEFTY DUTY WHEN IT RETURNED FROM ITS HOME BASE TO CONTINUE ITS WASHINGTON-DALLAS SERVICE. U.S. EXPRESSED ITS WILLINGNESS TO EXPLORE ANY SPECIFIC DIFFICULTIES EC HAD ENCOUNTERED WITH THIS PARTICULAR PROVISION.

(E) VARIOUS CUSTOMS MEASURES: EC OBSERVED THAT VARIOUS BILLS WERE BEING ENTERTAINED IN U.S. CONGRESS ON LIQUIDATION OF ENTRIES AND ASSESSMENT OF PENALTIES IN VALUATION CASES. ABBOTT HALF HEARTEDLY SAID THAT EC REQUEST WAS MERELY "COINCIDENTAL". WITH RESPECT TO NOMENCLATURE, THE EC IS GIVING THOUGHT TO SPECIFIC ACTIONS THEY WOULD LIKE THE UNITED STATES TO UNDERTAKE.

(F) GENERAL MEASURES: THE EC NOTED THAT IT HAD EXPRESSED AN INTEREST IN GENERAL MEASURES MAINTAINED BY THE U.S. INCLUDING SECTION 337 OF THE 1930 TARIFF ACT AND POSSIBLE U.S. ADOPTION OF THE KYOTO CONVENTION. THE EC EXPRESSED ITS PARTICULAR CONCERN WITH RESPECT TO THE RECENT DEVELOPMENTS IN SECTION 337 CASES WHERE REMEDIES FOR SUCH MATTERS AS DUMPING AND SUBSIDIZATION WERE TOTAL EXCLUSION FROM THE U.S. MARKET, A REMEDY NOT FOUND IN THE GATT. U.S. NOTED THAT WE HAD NOT REPLIED TO THESE GENERAL ISSUES MENTIONED IN EC HEADNOTE SINCE IT WAS NOT CLEAR THAT THESE WERE A PART OF THE EC'S REQUESTS. EC AVOIDED SAYING THAT THEY HAD INTENDED TO MAKE REQUESTS ON THESE ITEMS, BUT DID REITERATE THEIR "DESIRE" FOR POSITIVE ACTION WITH RESPECT TO THE MEASURES MENTIONED IN THE HEADNOTE.

(G) RECURRING DUTIES: THE EC RAISED A NEW ISSUE
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REGARDING ITS INTEREST IN RECURRING DUTIES IN THE UNITED STATES. UNDER THEIR INTERPRETATION, IF AN IMPORTED ARTICLE IS EXPORTED AND FURTHER PROCESSED IN ANOTHER COUNTRY THEN REEXPORTED TO THE UNITED STATES, THE ITEM WILL BE SUBJECT TO DUTIES ON THE TOTAL VALUE OF THE MERCHANDISE. THE EC IS REQUESTING THAT IN SECTION 806.20 THAT THE WORDS "OR PROCESSING" BE ADDED TO THE PHRASE "REPAIR OR ALTERATION". THE U.S. SAID IT WOULD CONVEY THIS REQUEST TO ITS AUTHORITIES BUT WAS NOT IN A POSITION TO RESPOND SINCE THE REQUEST HAD NOT BEEN PREVIOUSLY NOTIFIED.

(H) MARKS OF ORIGIN AND PENALTIES: EC SAID THAT IN RESPONSE TO U.S. OFFER ON THIS ITEM THEY WOULD WISH TO HAVE JEWELRY ADDED TO THE "J" LIST.

6. IN CONCLUDING REMARKS BOTH SIDES CONSIDERED THE INITIAL REVIEW HIGHLY USEFUL AND AGREED TO HAVE FOLLOW-UP MEETINGS PARTICULARLY WITH RESPECT TO MISCELLANEOUS NTM'S MAINTAINED BY MEMBER STATES, MERCHANT MARINE ACT, AND CLASSIFICATION QUESTIONS.

7. DRAFTED BY WALLAR. MCDONALD

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Message Attributes

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